

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO

DEAN S. KRISTY (CSB No. 157646)

dkristy@fenwick.com

KEVIN P. MUCK (CSB. No. 120918)

kmuck@fenwick.com

JENNIFER BRETAN (CSB No. 233475)

jbretan@fenwick.com

FENWICK & WEST LLP

555 California Street, 12th Floor

San Francisco, CA 94104

Telephone: 415.875.2300

Facsimile: 415.281.1350

ALISON C. JORDAN (CSB NO. 311081)

ajordan@fenwick.com

FENWICK & WEST LLP

801 California Street

Mountain View, CA 94041

Telephone: (650) 988-8500

Facsimile: (650) 938-5200

Attorneys for Defendants Tesla, Inc., Elon Musk,
Brad W. Buss, Robyn Denholm, Ira Ehrenpreis,
Antonio J. Gracias, James Murdoch, Kimbal
Musk, and Linda Johnson Rice

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE TESLA, INC. SECURITIES
LITIGATION

Case No.: 3:18-cv-04865-EMC

**DECLARATION OF JENNIFER C.
BRETAN IN SUPPORT OF
DEFENDANTS' ADMINISTRATIVE
MOTION FOR RELIEF FROM CASE
SCHEDULE PENDING LEAD
PLAINTIFF PROCEEDINGS IN THE
NINTH CIRCUIT**

Date Action Filed: August 10, 2018

1 I, Jennifer C. Bretan, hereby declare:

2 1. I am an attorney admitted to practice before this Court and a partner at the law
3 firm of Fenwick & West LLP which represents the defendants in this action. I have personal
4 knowledge of the matters set forth in this declaration and, if called upon to do so, could and
5 would testify competently as to the matters described below.

6 2. On March 22, 2019, the United States Court of Appeals for the Ninth Circuit
7 issued an Order setting a briefing schedule in connection with a pending petition for writ of
8 mandamus by Bridgestone Investment Corp.'s ("Bridgestone"), a prior lead plaintiff movant in
9 this case. Attached as **Exhibit 1** is a true and correct copy of the Ninth Circuit's March 22, 2019
10 Order.

11 3. In light of the lead plaintiff proceedings and the Ninth Circuit's Order, my
12 colleague Dean Kristy and I called counsel for Lead Plaintiff Glen Littleton to solicit their
13 agreement to defer the briefing schedule in this case temporarily pending the Ninth Circuit's
14 resolution of the lead plaintiff matters. Littleton's counsel declined to agree to defer the schedule.

15 4. On March 22, 2019, we also spoke with counsel for Bridgestone and understand
16 that Bridgestone intends to file a motion to stay these proceedings. We indicated we agreed.

17 5. Given defendants' current deadline to move to dismiss the Consolidated
18 Complaint is imminent, Thursday, March 28, 2019, it would be fundamentally unfair to
19 defendants, and potentially waste resources, if the deadline is not deferred and they are required
20 to respond to the Complaint, and preview their arguments, at a time when the Lead Plaintiff and
21 operative complaint are not fixed and may be superseded.

22 I declare under penalty of perjury under the laws of the United States of America that the
23 foregoing is true and correct and was executed at San Francisco, California on March 22, 2019.

24 Dated: March 22, 2019

FENWICK & WEST LLP

25 By: /s/ Jennifer C. Bretan

Jennifer C. Bretan

26 Attorneys for Defendants Tesla, Inc., Elon Musk,
27 Brad W. Buss, Robyn Denholm, Ira Ehrenpreis,
28 Antonio J. Gracias, James Murdoch, Kimbal Musk,
and Linda Johnson Rice

EXHIBIT 1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 22 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: BRIDGESTONE INVESTMENT
CORPORATION LIMITED.

BRIDGESTONE INVESTMENT
CORPORATION LIMITED,

Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA, SAN FRANCISCO,

Respondent,

KALMAN ISAACS; et al.,

Real Parties in Interest.

No. 19-70031

D.C. No. 3:18-cv-04865-EMC
Northern District of California,
San Francisco

ORDER

Before: SILVERMAN, TALLMAN, and MURGUIA, Circuit Judges.

This petition for a writ of mandamus raises issues that warrant an answer. *See* Fed. R. App. P. 21(b). Accordingly, within 14 days after the date of this order, the real parties in interest shall file an answer.

The district court, within 14 days after the date of this order, may address the petition if it so desires. The district court may elect to file an answer with this court or to issue an order and serve a copy on this court. Petitioner may file a reply

within 5 days after service of the answer(s). The petition, answer(s), and any reply shall be referred to the next available motions panel.

The Clerk shall serve this order on the district court and District Judge Edward M. Chen.